

**Kentucky Adoption Services, Inc.**

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Specialists in Domestic and International Adoption

US Department of State  
Adoption Regulations

RE: Comments on Proposed Regulations to Implement the Hague Convention & IAA

To Whom It May Concern:

Please accept these comments on behalf of Kentucky Adoption Services, Inc., 4501 Bridle Ridge Ct., Owensboro, KY 42303, December 15, 2003, phone (270) 684-2598. These comments are in addition to the comments submitted by the Joint Council on International Children Services, with which Kentucky Adoption Services concurs and incorporates herein.

Kentucky Adoption Services is a non-profit organization formed in 2002 to assist the children of the world in need of permanent, loving families. We first and foremost believe in the rights of children and believe that every child has a fundamental right to be in a family where they are loved, nurtured and appreciated for their own unique characteristics. It is our desire to work with only overseas counterparts who share our commitment to children and who behave in ethical and honest ways. We subscribe to the basic tenets of the Hague Treaty and have been supportive of its ratification in the United States.

However, there are several concerns we have with the proposed regulations that will govern agencies working in international adoptions. First and foremost, is the belief that several of the regulations go above and beyond statutory authority and are in fact, in excess of what is practical and legitimate.

The first section I would like to address is 96.33 (h) with regard to the risk and liability insurance, as is also presented in 96.39 (d), 96.45 and 96.46. The requirement that agencies have 1 million dollars in coverage per incidence is highly excessive and promotes frivolous litigation. It is also impractical because liability insurance for agencies is almost impossible to obtain anyway. When it is obtainable the cost is often prohibitive. A requirement such as this with no means of guaranteeing availability at a reasonable cost will result in several agencies having to stop serving children in various parts of the world. It is our suggestion that the State department should provide some mechanism for ensuring this availability through underwriting the policies or otherwise taking into account the difficulty of this situation.

It is also this agency's belief that the requirement presented with 96.45 and 96.46 will increase the difficulty of obtaining insurance. The exclusion of a blanket waiver is

unclear. It is unreasonable to expect that agencies be responsible for supervised providers who are often chosen by families, as well as all overseas contacts. While it is reasonable to expect agencies to research their overseas counterparts it would be impossible to oversee every step of the adoption process in a foreign country. This provision in and of itself will result in many local service, homestudy and post-placement providers, going out of business, because accredited agencies will not want to work with others who are not accredited and whom they could not bring litigation against if a family brought litigation against them for the local service providers' negligence or mistake.

There is little provision in the proposed regulations to safeguard agencies who are doing their best to serve a high risk population. There are risks inherent in adopting from overseas, as there are with several other choices families make. It is unreasonable for an agency to be prohibited from passing these risks along to families. When surgery is done there is a risk. This is passed along to the patient in an informed consent -- so it is with adoption. I understand that the courts have upheld the legality of informed consent and that making a change such as this would be a significant difference in the court's opinion, and also actual practice in adoption, as well as other fields. While there is a need for accountability is it an adoption provider's fault if a 4 month old dies of SIDS? There is no reason that an adoption provider located in another country should have a greater degree of responsibility than surgeons, day care directors, etc. This will force many agencies out of business.

It is further this agency's opinion that the requirement that adoption homestudy workers have a Masters degree is unnecessarily restrictive 96.37 (f). There are several qualified personnel with a bachelors degree and experience in adoption that are in fact more qualified to do homestudy investigations than a person with only a Masters degree. This requirement, as well as the others will unnecessarily increase the financial burden of adopting substantially.

There is also the issue of accrediting bodies. It is our concern that only one or two accrediting bodies will be available, resulting in a monopoly where fees are not competitive and where agencies have little to no choice. For Kentucky Adoption Services to begin the accrediting process with COA it is a minimum fee of \$6000 not including travel expenses and the personnel to prepare the documentation for accrediting. This fee is prohibitive for a small agency and will definitely increase the cost of providing services so that children can find families or it will result in us and many other agencies shutting down. It is the belief of this agency that the State Department should ensure that accrediting bodies charge reasonable fees and that some of this fee should be provided by the government, through either a grant to the accrediting bodies or a contract via the government or some other arrangement. It also appears as if the accrediting bodies will have too much power and control over agencies with a possibility of favoritism or blackballing an agency for personal reasons, with agencies having no recourse.

Thank you for your attention to these matters,

A. Lucy Armistead  
Founder & Executive Director